

§ 196.530

(2) Administer, operate, offer, or participate in a fringe benefit plan that does not provide for equal periodic benefits for members of each sex and for equal contributions to the plan by such recipient for members of each sex; or

(3) Administer, operate, offer, or participate in a pension or retirement plan that establishes different optional or compulsory retirement ages based on sex or that otherwise discriminates in benefits on the basis of sex.

§ 196.530 Marital or parental status.

(a) *General.* A recipient shall not apply any policy or take any employment action:

(1) Concerning the potential marital, parental, or family status of an employee or applicant for employment that treats persons differently on the basis of sex; or

(2) Which is based upon whether an employee or applicant for employment is the head of household or principal wage earner in such employee's or applicant's family unit.

(b) *Pregnancy.* A recipient shall not discriminate against or exclude from employment any employee or applicant for employment on the basis of pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery therefrom.

(c) *Pregnancy as a temporary disability.* Subject to §196.235(d), a recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy, recovery therefrom, and any temporary disability resulting therefrom as any other temporary disability for all job-related purposes, including commencement, duration, and extensions of leave, payment of disability income, accrual of seniority and any other benefit or service, and reinstatement, and under any fringe benefit offered to employees by virtue of employment.

(d) *Pregnancy leave.* In the case of a recipient that does not maintain a leave policy for its employees, or in the case of an employee with insufficient leave or accrued employment time to qualify for leave under such a policy, a recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy, and recovery therefrom as a justification for a leave of absence without pay for a reasonable period of

32 CFR Ch. I (7–1–11 Edition)

time, at the conclusion of which the employee shall be reinstated to the status that she held when the leave began or to a comparable position, without decrease in rate of compensation or loss of promotional opportunities, or any other right or privilege of employment.

§ 196.535 Effect of state or local law or other requirements.

(a) *Prohibitory requirements.* The obligation to comply with §§196.500 through 196.550 is not obviated or alleviated by the existence of any State or local law or other requirement that imposes prohibitions or limits upon employment of members of one sex that are not imposed upon members of the other sex.

(b) *Benefits.* A recipient that provides any compensation, service, or benefit to members of one sex pursuant to a State or local law or other requirement shall provide the same compensation, service, or benefit to members of the other sex.

§ 196.540 Advertising.

A recipient shall not in any advertising related to employment indicate preference, limitation, specification, or discrimination based on sex unless sex is a bona fide occupational qualification for the particular job in question.

§ 196.545 Pre-employment inquiries.

(a) *Marital status.* A recipient shall not make pre-employment inquiry as to the marital status of an applicant for employment, including whether such applicant is "Miss" or "Mrs."

(b) *Sex.* A recipient may make pre-employment inquiry as to the sex of an applicant for employment, but only if such inquiry is made equally of such applicants of both sexes and if the results of such inquiry are not used in connection with discrimination prohibited by these Title IX regulations.

§ 196.550 Sex as a bona fide occupational qualification.

A recipient may take action otherwise prohibited by §§196.500 through 196.550 provided it is shown that sex is a bona fide occupational qualification for that action, such that consideration of sex with regard to such action

Office of the Secretary of Defense

§ 197.3

is essential to successful operation of the employment function concerned. A recipient shall not take action pursuant to this section that is based upon alleged comparative employment characteristics or stereotyped characterizations of one or the other sex, or upon preference based on sex of the recipient, employees, students, or other persons, but nothing contained in this section shall prevent a recipient from considering an employee's sex in relation to employment in a locker room or toilet facility used only by members of one sex.

Subpart F—Procedures

§ 196.600 Notice of covered programs.

Within 60 days of September 29, 2000, each Federal agency that awards Federal financial assistance shall publish in the FEDERAL REGISTER a notice of the programs covered by these Title IX regulations. Each such Federal agency shall periodically republish the notice of covered programs to reflect changes in covered programs. Copies of this notice also shall be made available upon request to the Federal agency's office that enforces Title IX.

§ 196.605 Enforcement procedures.

The investigative, compliance, and enforcement procedural provisions of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) ("Title VI") are hereby adopted and applied to these Title IX regulations. These procedures may be found at 32 CFR 195.7 through 195.12.

[65 FR 52885, Aug. 30, 2000]

PART 197—HISTORICAL RESEARCH IN THE FILES OF THE OFFICE OF THE SECRETARY OF DEFENSE (OSD)

Sec.

197.1 Purpose.

197.2 Applicability and scope.

197.3 Definition.

197.4 Policy.

197.5 Responsibilities.

197.6 Procedures.

APPENDIX A TO PART 197—EXPLANATION OF
FREEDOM OF INFORMATION ACT (5 U.S.C.
552) EXEMPTIONS

APPENDIX B TO PART 197—PROCEDURES FOR
HISTORICAL RESEARCHERS PERMANENTLY

ASSIGNED WITHIN THE EXECUTIVE BRANCH
WORKING ON OFFICIAL PROJECTS

APPENDIX C TO PART 197—PROCEDURES FOR
THE DEPARTMENT OF STATE (DOS) FOR-
EIGN RELATIONS OF THE UNITED STATES
(FRUS) SERIES

APPENDIX D TO PART 197—PROCEDURES FOR
HISTORICAL RESEARCHERS NOT PERMA-
NENTLY ASSIGNED TO THE EXECUTIVE
BRANCH

APPENDIX E TO PART 197—FORM LETTER—
CONDITIONS GOVERNING ACCESS TO OFFI-
CIAL RECORDS FOR HISTORICAL RESEARCH
PURPOSES

APPENDIX F TO PART 197—PROCEDURES FOR
COPYING OF DOCUMENTS FOR THE FOREIGN
RELATIONS OF THE UNITED STATES SERIES

APPENDIX G TO PART 197—PROCEDURES FOR
COPYING DOCUMENTS

AUTHORITY: 10 U.S.C. 301.

SOURCE: 72 FR 36876, July 6, 2007, unless
otherwise noted.

§ 197.1 Purpose.

This part identifies and updates the policies and procedures for the programs that permit U.S. citizens to perform historical research in records created by or in the custody of the OSD consistent with Executive Order 12958, DoD 5200.01-R¹, DoD 5400.07-R, DoD Directive 5400.11, the Interagency Agreement on Access for Official Agency Historians, and DoD Directive 5230.09.

§ 197.2 Applicability and scope.

This part applies to:

(a) The Office of the Secretary of Defense and organizations for which the Washington Headquarters Services provides administrative support (hereafter referred to collectively as the "OSD Components").

(b) All historical researchers.

(c) Former OSD Presidential Appointees seeking access to records containing information they originated, reviewed, signed, or received while serving in an official capacity.

§ 197.3 Definition.

Historical researcher or researcher. A person desiring to conduct research in OSD files for historical information to use in any project (e.g. agency historical office projects, books, articles,

¹Copies of unclassified DoD Directives, DoD Instructions, DoD Publications, and OSD Administrative Instructions may be found at <http://www.dtic.mil/whs/directives/>.